

REMARKS

Prior to present amendment claims 22-32 were pending in this application and claims 17-20 have been previously withdrawn from consideration. Claims 22 and 24-32 have been rejected under 35 U.S.C. §103 as being unpatentable over Ouchi '087 in view of Ikeda '694. Claim 23 was indicated to be allowable if rewritten in the independent form.

By present amendment and in compliance with the Examiner's request, Applicant added new claim 33 which corresponds to the allowable claim 23 rewritten in the independent form by including all limitations of independent claim 22. Therefore, new claim 33 is believed to be allowable.

Applicant respectfully disagrees with the rejection of Claims 22 and 24-32 over combination of Ouchi '087 and Ikeda '694 for the reasons explained below. Independent claim 22 specifically recites "a flexible hood extending from the distal end of the second lumen and gradually tapering down towards the distal end of the first lumen, the hood maintaining its tapered configuration even in the absence of a medical instrument in the second lumen, to form a smooth transition surface adjacent the transparent tip to facilitate blunt tissue dissection and maneuverability."

The hood as claimed thus exhibits a tapered transition contour towards the distal end of the first lumen. It should be recognized that the above-described aspects of the claimed invention facilitate easy tissue dissection in response to advancing the tip and the hood as well as other advantages, as specifically explained on page 3, lines 1-9 and page 10, lines 2-13 of the specification.

These aspects of the claimed invention are not disclosed or even suggested by the cited references considered either alone or in the combination proposed by the Examiner. In fact, the cited references teach away from the features of the present invention and do not provide any

motivation or incentive to combine them. Specifically, the Examiner has already admitted that Ouchi '087 fails to teach at all any flexible hood. The Examiner, however, mistakenly contends that the missing teaching is supplied by the elastic hood 403 of Ikeda '694 patent. Applicant respectfully disagrees.

Neither Ouchi nor Ikeda meet various structural limitations and interrelations as recited in claim 22. At a minimum, both references fail to teach “transparent tip disposed at the distal end of the first lumen for performing tissue dissection” and “flexible hood extending from the distal end of the second lumen and gradually tapering down towards the distal end of the first lumen.” Fig. 2 of Ouchi that the Examiner refers to in the Office Action simply does not support such structure as claimed.

Similarly, Ikeda is lacking teaching of these and other elements as claimed. From the description in columns 36-37 of Ikeda '694 of the use of endoscope with the Ikeda sensor apparatus, it is clear that the Ikeda '694 reference has nothing to do with tissue dissection, and therefore, it is not concerned at all with solving issues related to tissue dissection and adding features, such as tapered contour and lower profile, that are beneficial in the process of tissue dissection. In fact, the hood 403 of Ikeda, as seen in Figs. 39-40 has completely different configuration that increases the overall profile of the device.

Regardless, there is no motivation whatsoever to combine these two references as proposed by the Examiner. Since neither Ouchi '087 nor Ikeda '694 alone disclose or suggests the features of the present invention as claimed, any combination of these two references could not and does not yield or even suggest the present invention. The deficient disclosures of these references thus fail even to establish a *prima facie* basis from which a proper determination of obviousness could be made. It is therefore respectfully submitted that independent claim 22 and its dependent claims are patentable over the cited references.

Reconsideration and allowance of claims 22-33 are respectfully solicited.

Respectfully submitted,
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